THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION No. 17615 of 2005

Between

Ch.Kanakaiah

…Petitioner

And

The APSRTC rep. by its Regional Manager,

Karimnagar and two others.

…Respondents

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION No. 17615 of 2005

O R D E R:

This writ petition is filed aggrieved by the impugned order passed by the third respondent, dated 28.08.1995, under which a major penalty of withholding annual increment for a period of one year with cumulative effect was imposed on the petitioner.

According to the petitioner, he was appointed as a driver in the year 1994. While so, on 11-07-1995 he was charge sheeted on the allegation that he caused accident to the vehicle and was called upon to submit his explanation to the said charge. He submitted explanation on 18-07-1995. However, the third

respondent, if he is not satisfied with the explanation, instead of conducting regular departmental enquiry, imposed a major punishment of withholding annual increment for a period of one year with cumulative effect. Hence, the present writ petition.

According to the petitioner, major penalty cannot be imposed without conducting departmental enquiry, in view of the Judgment of Supreme Court in ***KULWANTH SINGH GILL V. STATE OF PUNJAB*** and also as per various judgments of this Court. Therefore, the imposition of major penalty without conducting departmental enquiry, is illegal and as such, the impugned order is liable to be set aside.

Heard the learned counsel for the petitioner and the learned standing counsel.

Admittedly, a major penalty was imposed by the third respondent without conducing a regular departmental enquiry. Therefore, the impugned order is liable to be set aside. However, the petitioner had approached this Court after ten years from the date of the impugned order. Therefore, this Court instead of setting aside the impugned order and remitting the same to the third respondent for fresh proceedings, inclined to modify the impugned order passed by the third respondent from major penalty to simple penalty. Accordingly, the impugned order is modified imposing the penalty of withholding annual increment for a period of one year without cumulative effect. It is made clear that the monitory benefits to which the petitioner is entitled to as a result of this order would be available to him only from the date of this order, but not for the period prior to the date of this order.

The Writ Petition is accordingly disposed of. No costs.

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10-08-2005

klp